

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 157 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and
MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

1 Yes

2 to 5 No

COMMISSIONER OF INCOME TAX

Versus

PETLAD TURKEY RED DYE WORKS CO. LTD.

Appearance:

MR BB NAIK with MR MANISH R BHATT for Petitioner
SERVED BY RPAD - (N) for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT and

MR.JUSTICE A.R.DAVE

Date of decision: 09/02/99

ORAL JUDGEMENT (per A.R. Dave, J.)

The Income Tax Appellate Tribunal, Ahmedabad Bench 'B', has referred the following question for the opinion of this Court under the provisions of sec. 256(1) of the Income-tax Act, 1961.

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the order passed by the ITO giving effect to the orders of the CIT under section 263 of the Income-tax Act, 1961 was liable to be cancelled?"

2. Learned Advocate Shri B.B. Naik appearing for the revenue has submitted that in view of the peculiar facts and circumstances and developments which have taken place during pendency of the present reference, it would not be necessary to go into the facts of the case in detail. It has been submitted by him that the order of the CIT under sec. 263 of the I.T. Act referred to hereinabove was held to be bad in law by the Tribunal in another proceedings and the said order of the Tribunal has become final by this time. In view of the said facts, the order passed by the CIT under section 263 of the Income-tax Act, 1961 cannot be said to be a valid order.

3. In the above-referred circumstances, the order of the ITO giving effect to the order of the CIT u/s 263 of the I.T. Act will have to be cancelled.

4. In the circumstances, cancellation of the order passed by the ITO by the Tribunal is justified and the question referred to this Court is answered in affirmative.

The reference is accordingly disposed of with no order as to costs.

(hn)